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Judge Hoffman—Reversed

Those who revere justice and abhor the events surrounding the Democratic National Convention in Chicago in 1968 can only rejoice that the Seventh Circuit Court of Appeals has taken a major step in cleaning up the ugly record of that sordid affair. It reversed the convictions of the five defendants found guilty of substantive crimes in the Chicago conspiracy trial. It was a trial which should never have taken place, tried by a judge who should never have tried it, prosecuted by a U.S. Attorney who should never have prosecuted it, and it flowed from events which need never have occurred in the first place. Thus, in a rough sense, elementary justice has prevailed since the case against one of the defendants—Bobby Seale—has been dropped, two others have been found not guilty and the convictions of five others have been reversed.

But the trial of tragedy leading up to this point has been monumental and the toll on the nation not yet fully reckoned. The first tragedy is that the disorders with all the ugliness and meanness of spirit they injected into the bloodstream of America, were not avoided. Weeks before the convention, representatives of the Department of Justice—the most experienced people in the nation in such matters—met with the leaders of the youthful protesters. The federal agents ascertained a strong desire on the part of the demonstrators to negotiate with Chicago authorities and to put on a peaceful, though dramatic, show during the convention. On the strength of those assurances, representatives of Attorney General Ramsey Clark urged Mayor Daley to conduct, with the demonstrators, intensive negotiations of the kind which had avoided violence in Washington and elsewhere. He refused, holding to his hard line instead, and the rest is history.

Highly professional and deeply seasoned law enforcement personnel and lawyers, upon viewing the disorders, concluded that the errors of judgment and excessive use of force by the Chicago police department had been the principal causes of the riots. After an exhaustive review of the facts, a commission of inquiry headed by Illinois Governor-elect Daniel Walker concluded that Chicago had experienced a "police riot." Yet, in the end, it was seven demonstrators—drawn from all walks of the peace movement—who were brought to trial by the federal government.

Then came the incredible trial. Eight men were brought into Judge Julius Hoffman's court and charged with crossing state lines with the intent

to incite a riot and with conspiracy. The five principal courtroom actors were Judge Julius Hoffman, prosecutor Thomas Foran and defendants Abby Hoffman, Bobby Seale and Jerry Rubin. Defendants Hoffman and Rubin—masters of the put-on—decided to turn the trial into the absolute farce they believed it to be. Defendant Seale, a founder of the Black Panther Party, believed himself to be a victim of both fascism and racism and screamed for his constitutional rights. He was finally bound, shackled and gagged. His case was ultimately severed from the others and the government later dropped the charges against him rather than disclose information about his case obtained by wiretaps.

Prosecutor Foran—a Daley protege who had been involved in the pre-convention negotiations and thus probably should have disqualified himself, ran the prosecution with righteous sneers and smirks. And Judge Hoffman, displaying contempt for the defendants and their attorneys and their rights, utterly failed to curb the unfairness of the prosecutors and the emotionalism of the defense. He never injected reason into the proceedings or gave them any semblance of a search for measured justice. The whole show was a first-rate example to all who wanted to believe that the "system" could not and would not work; it was, in short, a study in systemic breakdown.

The prosecution's case was based on a law conceived in passion and bigotry—the so-called "Rap Brown law." The authorities in Chicago used incredibly bad judgment in handling the demonstration, the government brought a bad case to trial, the judicial system failed to select a judge who could preside even-handedly. The prosecutor seemed more intent on a conviction than on achieving justice and defendants Hoffman and Rubin put on a stupid stunt show.

The system finally caught up with all of this in the reversal of the convictions this week. The principal grounds for the decision were—as they should have been—the courtroom demeanor of Judge Hoffman and of the prosecutors. Other errors of law were cited, but it was the judge's utter inability to conduct himself and the trial in anything resembling a search for the truth that did so much to demean the process of justice in this country. The government now has the option to retry the case. It is ardently to be hoped that it will not. Judge Hoffman's "trial of the century" turned out to be a monumental fiasco and one of those in one decade is enough.